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**To:** Riowell, LLC (trademark@aminhallihan.com)  
**Subject:** TRADEMARK APPLICATION NO. 76626479 - LEANLIFE - N/A  
**Sent:** 5/30/2008 11:27:06 AM  
**Sent As:** ECOM116@USPTO.GOV  
**Attachments:**

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**UNITED STATES PATENT AND TRADEMARK OFFICE**

**SERIAL NO:** 76/626479

**MARK:** LEANLIFE

**CORRESPONDENT ADDRESS:**

RAKESH M. AMIN  
AMIN HALLIHAN  
217 N JEFFERSON ST  
STE 100  
CHICAGO, IL 60661-1103

**GENERAL TRADEMARK INFORMATION:**  
<http://www.uspto.gov/main/trademarks.htm>

**APPLICANT:** Riowell, LLC

**CORRESPONDENT'S REFERENCE/DOCKET  
NO:**

N/A

**CORRESPONDENT E-MAIL ADDRESS:**  
trademark@aminhallihan.com

**REQUEST FOR RECONSIDERATION DENIED**

**ISSUE/MAILING DATE:** 5/30/2008

Applicant is requesting reconsideration of a final refusal issued/mailed November 7, 2007.

After careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

Applicant's mark has been refused registration under Section 2(d). Applicant's mark is confusingly similar in appearance, sound, connotation and overall commercial impression to registrant's mark. Applicant's goods are highly related to, if not identical to, the goods of registrant. Therefore, it is presumed that such goods travel through the same channels of trade and will be encountered by the same class of purchasers who will mistakenly believe they come from a single source.

In its request for reconsideration, applicant indicates that the cited registration was allowed to register over a prior registration for the same mark and the same goods owned by applicant; applicant states that

in light of previous decisions made by other examining attorneys, it would be unfair not to permit the registration of its mark over the currently cited registration. However, case law makes clear that prior decisions and actions of other trademark examining attorneys in registering different marks have little evidentiary value and are not binding upon the Office. TMEP §1207.01(d)(vi). Each case is decided on its own facts, and each mark stands on its own merits. See *AMF Inc. v. Am. Leisure Prods., Inc.*, 474 F.2d 1403, 1406, 177 USPQ 268, 269 (C.C.P.A. 1973); *In re Int'l Taste, Inc.*, 53 USPQ2d 1604, 1606 (TTAB 2000); *In re Sunmarks, Inc.*, 32 USPQ2d 1470, 1472 (TTAB 1994). The current examining attorney must make a decision and determination based on the current facts and current record and cannot make a determination based on a prior decision of another examiner.

With regard to the applicant's request that the current application be suspended, this request is denied. The fact that applicant plans to file a petition to cancel the cited registration is not grounds for suspension. However, once applicant has actually filed a petition with the Trademark Trial and Appeal Board (TTAB), applicant may inform the examining attorney and the application will then be suspended. TMEP §716.02(a).

Accordingly, applicant's request for reconsideration is *denied*. The time for appeal runs from the date the final action was issued/mailed. 37 C.F.R. Section 2.64(b); TMEP Section 715.03(c). If applicant has already filed a timely notice of appeal, the application will be forwarded to the Trademark Trial and Appeal Board (TTAB).

/Susan Kastriner Lawrence/  
Trademark Examining Attorney  
Law Office 116  
(571) 272-9186

**STATUS CHECK:** Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

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**IMPORTANT NOTICE**  
**USPTO OFFICE ACTION HAS ISSUED ON 5/30/2008 FOR**  
**APPLICATION SERIAL NO. 76626479**

Please follow the instructions below to continue the prosecution of your application:

**VIEW OFFICE ACTION:** Click on this link [http://tmportal.uspto.gov/external/portal/tow?DDA=Y&serial\\_number=76626479&doc\\_type=REC&mail\\_date=20080530](http://tmportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=76626479&doc_type=REC&mail_date=20080530) (or copy and paste this URL into the address field of your browser), or visit <http://tmportal.uspto.gov/external/portal/tow> and enter the application serial number to **access** the Office action.

**PLEASE NOTE:** The Office action may not be immediately available but will be viewable within 24 hours of this notification.

**RESPONSE MAY BE REQUIRED:** You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable **response time period**. Your response deadline will be calculated from **5/30/2008**.

**Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.**

**HELP:** For *technical* assistance in accessing the Office action, please e-mail [TDR@uspto.gov](mailto:TDR@uspto.gov). Please contact the assigned examining attorney with questions about the Office action.

**WARNING**

- 1. The USPTO will NOT send a separate e-mail with the Office action attached.**
- 2. Failure to file any required response by the applicable deadline will result in the ABANDONMENT of your application.**